

REMARKS

I. Introduction

Claims 11 to 15, 17 to 25, and 27 to 30 are pending in the present application. It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

II. Rejection of Claims 11 to 15, 17 to 25, and 27 to 30 Under 35 U.S.C. § 103(a)

Claims 11 to 15, 17 to 25, and 27 to 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of U.S. Patent No. 4,840,829 ("Suzuki et al."), U.S. Patent No. 5,162,074 ("Hills"), U.S. Patent No. 5,783,503 ("Gillespie et al."), U.S. Patent No. 6,022,338 ("Putzer"), and U.S. Patent No. 6,004,306 ("Robles et al."). Applicants respectfully submit that the present claims are allowable for the following reasons.

Suzuki et al. purportedly relate to a nonwoven fabric patterned with apertures. Gillespie et al. purportedly relate to meltspun multicomponent thermoplastic continuous filaments, products made therefrom, and methods therefore. Hills purportedly relates to a method of making plural component fibers. As previously argued, Applicants respectfully submit that the combination of Suzuki et al., Gillespie et al. and Hills does not disclose, or even suggest, a perforated nonwoven fabric that does not exceed 0.60% by weight in relation to the nonwoven weight of the at least one surface-active agent, nor the step of impregnating the perforated nonwoven fabric with at least one surface-active agent, wherein the perforated nonwoven fabric does not exceed 0.60% by weight in relation to the nonwoven weight of the at least one surface-active agent.

In response, the Office Action further relies upon Putzer and Robles et al. Robles et al. purportedly relate to an absorbent article with multi-directional extensible side panels. Nowhere, however, do Robles et al. disclose, or even suggest, a perforated nonwoven fabric that does not exceed 0.60% by weight in relation to the nonwoven weight of the at least one surface-active agent, nor the step of impregnating the perforated nonwoven fabric with at least one surface-active agent, wherein the perforated nonwoven fabric does not exceed 0.60% by weight in relation to the nonwoven weight of the at least one surface-active agent. Nor does the Office Action rely upon Robles et al. for disclosing such.

Putzer purportedly relates to an absorbent article having a multilayered containment barrier. While Putzer does disclose a surface treatment of top sheet 34 with about 0.28 weight percent of a surfactant so as to provide greater wettability, Applicants maintain that it would not have been obvious to produce a perforated nonwoven fabric or hygiene product having the specific combination of features claimed including a perforated nonwoven fabric not exceeding 0.60% by weight in relation to the nonwoven weight of the at least one surface-active agent.

As detailed on page 9, lines 1 to 19 of the Specification, the development of the perforations, i.e., their hole size, their shape, the arrangement of the individual perforations relative to each other (e.g., staggered or in rows) and the open area, as well as the extremely high suppleness of the segments (area between the perforations) composed of interlaced continuous microfiber filaments and their very low weight allow for a reduction in wetting agent up to the point of dispensing with it completely.

The Putzer diaper is constructed in a very different manner than the hygiene product of the present invention. For example, the top sheet 34 is stated to include 2.8-3.2 denier fibers formed from a weight having a basis weight of about 20 grams per square meter and a density of 0.13 grams per cubic centimeter. See col. 7, lines 31 to 35. Further, the diaper includes at least one multilayered containment barrier 60 located along one of the end edges 30 of the diaper. See col. 5, lines 66 to 67. Just because Putzer discloses use of about 0.28 weight percent of a surfactant on its particular embodiment of diaper, which may allow for a lower level of surfactant given its particular design, e.g., use of containment barriers, does not render it obvious to use less than the traditional level of surfactant, i.e., above 0.6 weight percent, on the hygiene product or perforated nonwoven fabric, as claimed. Nowhere does the combination of Suzuki et al., Hills, Gillespie et al., Putzer, and Robles et al. disclose, or even suggest, a hygiene product or perforated nonwoven fabric having the specific combination of an interlaced continuous microfiber having a titer range of 0.05 to 0.4 dtex, the filaments being composed of different polymers, the fabric having a mass per unit area of 8 to 17 grams per square meter, and the fabric not exceeding 0.60% by weight in relation to the nonwoven weight of the at least one surface-active agent. Nor does the combination of Suzuki et al., Hills, Gillespie et al., Putzer, and Robles et al. disclose, or even suggest, the method of making a perforated nonwoven fabric including splitting splittable fibers using water jets and impregnating the fabric with a surface-active agent not exceeding 0.60% by weight in relation to the nonwoven weight of the at least one surface-active agent.

Notwithstanding the above, to expedite prosecution, claims 11, 18 and 20 have been amended herein without prejudice to recite that the perforated nonwoven fabric does not exceed 0.20% by weight in relation to the nonwoven weight of the at least one surface-active agent, which is less than the 0.28% allegedly disclosed by Putzer. Specific support for this amendment can be found in the Specification, for example, on page 11, lines 21 to 25. Therefore, Applicants respectfully submit that the combination of Suzuki et al., Hills, Gillespie et al., Putzer, and Robles et al. do not disclose, or even suggest, all of the limitations of claims 11, 18 and 20, as amended.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or

combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). As stated above, the combination of Suzuki et al., Hills, Gillespie et al., Putzer, and Robles et al. fails to disclose, or even suggest, each and every feature of claims 11, 18 and 20. It is therefore respectfully submitted that the combination of Suzuki et al., Gillespie et al. and Hills does not render obvious claims 11, 18 and 20.

Claims 12 to 15, 17 and 28 depend from claim 11 and therefore include all of the limitations of claim 11. Claims 19 and 29 depend from claim 18 and therefore include all of the limitations of claim 18. Claims 21 to 25, 27 and 30 depend from claim 20 and therefore include all of the limitations of claim 20. Therefore, it is respectfully submitted that these dependent claims are patentable over the combination of Suzuki et al., Hills, Gillespie et al., Putzer, and Robles et al. for at least the same reasons provided above in support of the patentability of claims 11, 18 and 20, respectively. *In re Fine, supra* (any dependent claim that depends from a non-obvious independent claim is non-obvious).

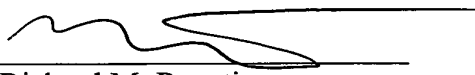
III. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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